

REMARKS

Claims 6, 13, 15, and 19 have been canceled. Claims 1, 9, 14, 16, 17, 20, and 21 have been amended. Claims 1 through 5, 7 through 12, 14, 16 through 18, 20, and 21 remain in the application. A marked up copy of the amended claims are attached hereto as Appendix A.

The oath or declaration was found to be defective.

Counsel for Applicants have been unable to locate a copy of the Declaration in Applicants' file and requests the Examiner to send a copy of same so that Applicants can determine what is defective about the Declaration and to correct the same.

The drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(4) because reference characters "46" and "48" have been both used to designate the cable. The drawings were also objected to because in Figure 5 there are some lines which are unclear. The drawings were objected to as failing to comply with 37 C.F.R. 1.84(p)(4) because a reference character "38" has been used to designate the both the side and some unknown feature in Figure 7.

Attached to this Amendment is a copy of the drawings with corrections in red for the Examiner's approval. However, the features in FIG. 5 that the Examiner circled are not being claimed and form no part of the claimed invention. Formal drawings will be submitted once the application has been allowed. It is respectfully submitted that the attached drawings overcome the objections and are acceptable.

The disclosure was objected to because of some informalities on page 1, 3, 6.

Applicant's copy of the Specification does not match the pages and line numbers of the Examiner to correct these pages to correspond with the Examiner's suggested amendments. Counsel for Applicants requests the Examiner to send a copy of same so that Applicants' can

amend the Specification correctly. Alternatively, Applicants would accept an Examiner's amendment of the same. It is respectfully submitted that the Specification is acceptable.

The Abstract of the Disclosure was objected to.

Applicant's copy of the Abstract of the Disclosure does not match that of the Examiner to correct the same to correspond with the Examiner's suggested amendment. Counsel for Applicants requests the Examiner to send a copy of same so that Applicants' can amend the Abstract of the Disclosure correctly. Alternatively, Applicants would accept an Examiner's amendment of the same. It is respectfully submitted that the Abstract of the Disclosure is acceptable.

Claims 1 through 7, 14 through 19, and 21 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse this rejection.

Claim 1 has been amended to clarify that the integrated extendable load floor assembly is being claimed. As to the use of the term "load floor", this term is clear and consistent with the Specification and cooperates with rails on the sides of the rear storage or cargo area. Claim 14 has also been amended to clarify that the integrated extendable load floor assembly slides in and out of the rear end of the vehicle. Claim 21 has been amended to clarify that the end gate is connected to the load floor. It is respectfully submitted that claims 1 through 7, 14 through 19, and 21, as amended, overcome the rejection under 35 U.S.C. § 112, second paragraph.

Claims 8 and 10 through 13 were rejected under 35 U.S.C. § 102(b) as being anticipated by Mayer (U.S. Patent No. 3,004,790). Claims 8 through 13 were rejected under 35

U.S.C § 102(b) as being anticipated by Webber (U.S. Patent No. 5,456,511). Applicants respectfully traverse both rejections.

U.S. Patent No. 3,004,790 to Mayer discloses an article carrier for an automobile trunk compartment. An article carrier 20 is normally nested within a compartment 12 of an automobile body rear portion 10 and is shiftable along a floor 14 in the nested position out of the open end of the compartment 12 to an extended position. The article carrier 20 includes a front panel 22, which closes the open end of the compartment 12 when the carrier 20 is in the nested position. The front panel 22 is connected along its lower end by a hinge 24 to the rearward end of a floor panel 26 for movement from the upstanding position to the lay-down horizontal position. Means is provided connecting the floor panel 26 to the floor 14 for shifting movement thereover. The means consist in supporting rollers 38 carried in brackets 40 which depend from the under face of the floor panel 26 and guide rollers 42 which roll in a channel shaped track ways 44 provided on the under face of the floor panel 26, the guide rollers 42 being supported on the brackets 46 which are carried on the upper face of the floor 14. A latch means is provided on the carrier panel 22 for securing the carrier 20 in the nested position. The latch means includes a handle 60 exteriorly of the panel 22 operatively connected to a hook 62 on the internal wall of the panel 22, the hook 62 engaging a keeper 64 provided in a rearward edge portion of the door 32. Mayer does not disclose at least one rail adapted to be disposed upon a side of the rear storage area.

U.S. Patent No. 5,456,511 to Webber discloses a truck bed extender 10 includes a frame 12 and a symmetrically opposed and spaced frame elements 14. Each frame element is adapted to be coupled to opposite side walls 16 of a bed 18 of a truck near its tailgate 20. Each frame element has a horizontal upper rail 22, a horizontal lower rail 24, and a pair of vertical corrugated crossbeams 26 coupled therebetween. The truck bed extender also includes an

extender pan 40 and extender tailgate 50 and side rollers 60. Webber does not disclose a load floor latching mechanism that latches a load floor in a closed position within a rear storage area and includes a movable handle disposed on the load floor.

In contradistinction, claim 8, as amended, clarifies the invention claimed as an integrated extendable load floor assembly for a vehicle having a rear storage area with a longitudinal open end including at least one rail adapted to be disposed upon a side of the rear storage area. The integrated extendable load floor assembly also includes a load floor cooperating with the at least one rail allowing for a selective sliding movement in and out of the rear storage area of the vehicle and to close the longitudinal open end of the rear storage area. The integrated extendable load floor assembly further includes a load floor latching mechanism that latches the load floor in a closed position within the rear storage area. The load floor latching mechanism includes a movable handle disposed on the load floor.

A rejection grounded on anticipation under 35 U.S.C. § 102 is proper only where the subject matter claimed is identically disclosed or described in a reference. In other words, anticipation requires the presence of a single prior art reference which discloses each and every element of the claimed invention arranged as in the claim. In re Arkley, 455 F.2d 586, 172 U.S.P.Q. 524 (C.C.P.A. 1972); Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983); Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481 (Fed. Cir. 1984).

None of the references cited disclose or anticipate the claimed invention of claim 8. Specifically, Mayer '790 merely discloses an article carrier for an automobile trunk compartment that is normally nested within a compartment of an automobile body rear portion and is shiftable along a floor in the nested position out of the open end of the compartment to an extended position. Mayer '790 lacks at least one rail adapted to be disposed upon a side of the

rear storage area. Webber '511 merely discloses a truck bed extender having a frame, a symmetrically opposed and spaced frame elements coupled to opposite side walls of a bed of a truck, an extender pan, an extender tailgate, and side rollers. Webber '511 lacks a load floor latching mechanism that latches a load floor in a closed position within a rear storage area and includes a movable handle disposed on the load floor. Each of the references fails to disclose the combination of an integrated extendable load floor assembly for a vehicle including at least one rail adapted to be disposed upon a side of the rear storage area, a load floor cooperating with the at least one rail allowing for a selective sliding movement in and out of the rear storage area, and a load floor latching mechanism that latches a load floor in a closed position within a rear storage area and includes a movable handle disposed on the load floor as claimed by Applicants. Therefore, it is respectfully submitted that claim 8 and the claims dependent therefrom are allowable over all of the rejections under 35 U.S.C. § 102(b).

Claims 14 through 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Mayer '790. Claims 14 through 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Webber '511. Claims 14 through 17 were rejected under 35 U.S.C. § 102(b) as being anticipated by Whitmore (U.S. Patent No. 5,301,992). Applicants respectfully traverse all of these rejections.

U.S. Patent No. 5,301,992 to Whitmore discloses a car trunk caddy. A caddy 10 includes a tray 28, supporting means 30 including scissor lengths, and a jack 32 for raising and lowering the tray 28. Whitmore does not disclose a load floor latching mechanism that latches a load floor in a closed position within a rear storage area.

As to claim 14, as amended, clarifies the invention claimed as a vehicle including a body including a rear end having a floor and sides extending upwardly and along the floor to form a rear storage area having a longitudinal open end. The vehicle also includes a decklid

pivotaly secured to the rear end to cover the rear storage area in a closed position and to allow access to the rear storage area in an open position. The vehicle further includes an integrated extendable load floor assembly cooperating with the rear storage area. The integrated extendable load floor assembly including at least one rail disposed upon each of the sides of the rear storage area and a load floor cooperating with the at least one rail. The load floor has selective sliding movement in and out of the rear storage area of the vehicle and to close the open end of the rear storage area and a load floor latching mechanism that latches the load floor in a closed position within the rear storage area.

None of the references cited disclose or anticipate the claimed invention of claim 14. Specifically, Mayer '790 merely discloses an article carrier for an automobile trunk compartment that is normally nested within a compartment of an automobile body rear portion and is shiftable along a floor in the nested position out of the open end of the compartment to an extended position. Mayer '790 lacks at least one rail adapted to be disposed upon a side of the rear storage area. Webber '511 merely discloses a truck bed extender having a frame, a symmetrically opposed and spaced frame elements coupled to opposite side walls of a bed of a truck, an extender pan, an extender tailgate, and side rollers. Webber '511 lacks a load floor latching mechanism that latches a load floor in a closed position within a rear storage area and includes a movable handle disposed on the load floor. Whitmore '992 merely discloses a car trunk caddy having a tray, supporting means including scissor lengths, and a jack for raising and lowering the tray. Whitmore '992 lacks a load floor latching mechanism that latches a load floor in a closed position within a rear storage area. Each of the references fails to disclose the combination of vehicle including an integrated extendable load floor assembly cooperating with a rear storage area having at least one rail disposed upon each of the sides of the rear storage area, a load floor cooperating with the at least one rail for sliding movement in and out of the rear

storage area of the vehicle, and a load floor latching mechanism that latches the load floor in a closed position within the rear storage area as claimed by Applicants. Therefore, it is respectfully submitted that claim 14 and the claims dependent therefrom are allowable over the rejections under 35 U.S.C. § 102(b).

Claim 20 was rejected under 35 U.S.C. § 102(b) as being anticipated by Whitmore '992. Applicants respectfully traverse this rejection.

Claim 20, as amended, clarifies the invention claimed as an automotive vehicle including a body including a rear end having a floor and sides extending upwardly and along the floor to form a cargo area. The automotive vehicle also includes a plurality of rails spaced laterally and extending longitudinally between the sides above the floor. The automotive vehicle includes a load floor operatively cooperating with the rails for sliding movement therealong. The automotive vehicle further includes a decklid pivotally secured to the sides to cover the cargo area in a closed position and to allow access to the cargo area in an open position and to allow the load floor to be extended when the decklid is in the open position. The automotive vehicle includes an endgate pivotally connected to the load floor and having a closed upright position and an open horizontal position. The automotive vehicle also includes an endgate latching mechanism that latches the endgate in the upright closed position. The automotive vehicle further includes a load floor latching mechanism that latches the load floor in a closed position within the rear storage area.

Whitmore '992 does not disclose or anticipate the claimed invention of claim 20. Specifically, Whitmore '992 merely discloses a car trunk caddy having a tray, supporting means including scissor lengths, and a jack for raising and lowering the tray. Whitmore '992 lacks a load floor latching mechanism that latches the load floor in a closed position within the rear storage area. Whitmore '992 fails to disclose the combination of an automotive vehicle including

an endgate pivotally connected to a load floor and having a closed upright position and an open horizontal position, an endgate latching mechanism that latches the endgate in the upright closed position, and a load floor latching mechanism that latches the load floor in a closed position within the rear storage area as claimed by Applicants. Therefore, it is respectfully submitted that claim 20 is allowable over the rejection under 35 U.S.C. § 102(b).

Claim 21 was rejected under 35 U.S.C. § 102(b) as being anticipated by Mayer '790. Applicants respectfully traverse this rejection.

Claim 21, as amended, clarifies the invention claimed as a sedan type automotive vehicle including a body including a rear end having a floor and sides extending upwardly and along the floor to form a cargo area. The sedan type automotive vehicle also includes a load floor for sliding movement in and out of the cargo area and an endgate pivotally connected to the load floor and having a closed upright position and an open horizontal position. The sedan type automotive vehicle includes a decklid pivotally secured to the sides and cooperating with the endgate to cover the cargo area in a closed position and to allow access to the cargo area in an open position and to allow objects to be removed from the cargo area when the decklid is in the open position. The sedan type automotive vehicle further includes a load floor latching mechanism that latches the load floor in a closed position within the cargo area.

Mayer '790 does not disclose or anticipate the claimed invention of claim 21. Specifically, Mayer '790 merely discloses an article carrier for an automobile trunk compartment that is normally nested within a compartment of an automobile body rear portion and is shiftable along a floor in the nested position out of the open end of the compartment to an extended position. Mayer '790 lacks a load floor latching mechanism that latches the load floor in a closed position within the cargo area. Mayer '790 fails to disclose the combination of a sedan type automotive vehicle including an endgate pivotally connected to a load floor, a decklid pivotally

secured to the vehicle, and a load floor latching mechanism that latches the load floor in a closed position within the cargo area as claimed by Applicants. Therefore, it is respectfully submitted that claim 21 is allowable over the rejection under 35 U.S.C. § 102(b).

Claims 1 through 7 were rejected under 35 U.S.C. § 103 as being unpatentable over Webber (U.S. Patent No. 5,456,511) in view of Kepley et al. (U.S. Patent No. 6,186,576) and Riley (U.S. Patent No. 6,199,930). Applicants respectfully traverse this rejection.

U.S. Patent No. 6,186,576 to Kepley et al. discloses a bedcover suspension/access system. A bedcover 10 is formed with a peripheral edge 12 having a perimeter that matches the inner periphery of the truck bed walls 4, 5, 6. A latch mechanism 16 may be provided at the tailgate 7 which interacts with the bedcover 10 to prevent access to the cargo area. Kepley et al. does not disclose a load floor operatively cooperating with rails for sliding movement therealong and to close a longitudinal end of a cargo area and a load floor latching mechanism that latches the load floor in a closed position within the cargo area.

U.S. Patent No. 6,199,930 to Riley discloses low profile compartment for a vehicle door. A truck 10 includes at least one door, such as tailgate 20, which has a cavity 22 defined by an inner panel 24 and an outer panel 26. A compartment assembly 28 is installed in the door and preferably in the tailgate 20 of the truck 10. The compartment assembly 28 is contained within the tailgate 20 so that when the compartment is closed there is no significant obstruction to the use of the tailgate 20 or to access to the bed 14. The tailgate 20 comprises an opening 30 in either the inner panel 24 or the outer panel 26 through which the assembly 28 is installed. Riley does not disclose a load floor operatively cooperating with rails for sliding movement therealong and to close a longitudinal end of a cargo area and a load floor latching mechanism that latches the load floor in a closed position within the cargo area.

In contradistinction, claim 1, as amended, clarifies the invention claimed as an integrated extendable load floor assembly for a vehicle having a rear end with a floor and sides extending upwardly and along the floor to form a cargo area and a decklid for closing an upper portion of the cargo area. The integrated extendable load floor assembly includes a plurality of rails adapted to be disposed upon the sides above the floor of the rear end. The integrated extendable load floor assembly also includes a load floor operatively cooperating with the rails for sliding movement therealong and to close a longitudinal end of the cargo area. The integrated extendable load floor assembly further includes a load floor latching mechanism that latches the load floor in a closed position within the cargo area.

The United States Court of Appeals for the Federal Circuit (CAFC) has stated in determining the propriety of a rejection under 35 U.S.C. § 103, it is well settled that the obviousness of an invention cannot be established by combining the teachings of the prior art absent some teaching, suggestion or incentive supporting the combination. See In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 U.S.P.Q. 929 (Fed. Cir. 1984). The law followed by our court of review and the Board of Patent Appeals and Interferences is that “[a] prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.” In re Rinehart, 531 F.2d 1048, 1051, 189 U.S.P.Q. 143, 147 (C.C.P.A. 1976). See also In re Lalu, 747 F.2d 703, 705, 223 U.S.P.Q. 1257, 1258 (Fed. Cir. 1984) (“In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings would appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification.”)

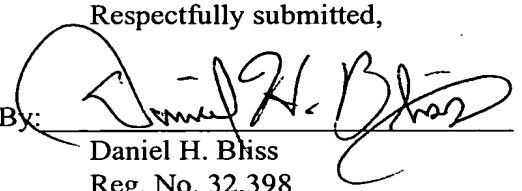
None of the references cited, either alone or in combination with each other, teach or suggest the claimed invention of claim 1. Specifically, Webber '511 merely discloses a truck bed extender having a frame, a symmetrically opposed and spaced frame elements coupled to opposite side walls of a bed of a truck, an extender pan, an extender tailgate, and side rollers. Webber '511 lacks a load floor latching mechanism that latches a load floor in a closed position within a rear storage area. Kepley et al. '576 merely discloses a bedcover suspension/access system having a bedcover with a latch mechanism at the tailgate, which interacts with the bedcover to prevent access to the cargo area. Kepley et al. '576 lacks a load floor operatively cooperating with rails for sliding movement therealong and to close a longitudinal end of a cargo area and a load floor latching mechanism that latches the load floor in a closed position within the cargo area. Riley '930 merely discloses a low profile compartment for a vehicle door having a compartment assembly contained within a tailgate. Riley '930 lacks a load floor operatively cooperating with rails for sliding movement therealong and to close a longitudinal end of a cargo area and a load floor latching mechanism that latches the load floor in a closed position within the cargo area. The references, if combinable, fail to teach or suggest the combination of an integrated extendable load floor assembly for a vehicle including a load floor operatively cooperating with rails for sliding movement therealong and to close a longitudinal end of a cargo area and a load floor latching mechanism that latches the load floor in a closed position within the cargo area as claimed by Applicants. The claimed combination is novel and unobvious because the integrated extendable load floor assembly provides expanded carrying capability of the cargo area in a conventional sedan type automotive vehicle without compromising the exterior appearance of the vehicle and integrated with the rear end of the vehicle. Therefore, it is respectfully submitted that claim 1 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 103.

Obviousness under § 103 is a legal conclusion based on factual evidence (In re Fine, 837 F.2d 1071, 1073, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988), and the subjective opinion of the Examiner as to what is or is not obvious, without evidence in support thereof, does not suffice. Since the Examiner has not provided a sufficient factual basis, which is supportive of his position (see In re Warner, 379 F.2d 1011, 1017, 154 U.S.P.Q. 173, 178 (C.C.P.A. 1967), cert. denied, 389 U.S. 1057 (1968)), the rejection of claims 1 through 7 is improper. Therefore, it is respectfully submitted that claims 1 through 7 are allowable over the rejection under 35 U.S.C. § 103.

Based on the above, it is respectfully submitted that the claims are in a condition for allowance, which allowance is solicited.

Respectfully submitted,

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APPENDIX A**VERSION OF THE CLAIMS WITH MARKINGS TO SHOW THE CHANGES**

Please amend claims 1, 8, 14, 16, 17, 20, and 21 as follows:

1. (AMENDED) An integrated extendable load floor assembly for a vehicle having a rear end with a floor and sides extending upwardly and along the floor to form a cargo area and a decklid for closing an upper portion of the cargo area, said integrated [drawer] extendable load floor assembly comprising:

a plurality of rails adapted to be disposed upon the sides above the floor of the rear end; [and]

a load floor operatively cooperating with said rails for sliding movement therealong and to close a longitudinal end of the cargo area; and

a load floor latching mechanism that latches said load floor in a closed position within the cargo area.

8. (AMENDED) An integrated extendable load floor assembly for a vehicle having [an enclosed integral] a rear storage area with a longitudinal open end comprising:

at least one rail adapted to be disposed upon [the bottom] a side of the rear storage area; [and]

a load floor cooperating with said at least one rail allowing for a selective sliding movement in and out of the rear storage area of the vehicle and to close the longitudinal open end of the rear storage area; and

a load floor latching mechanism that latches said load floor in a closed position within the rear storage area, said load floor latching mechanism including a movable handle disposed on said load floor.

14. (AMENDED) A vehicle comprising:

a body including a rear end having a floor and sides extending upwardly and along said floor to form a rear storage area having a longitudinal open end;

a decklid pivotally secured to said rear end to cover said rear storage area in a closed position and to allow access to said rear storage area in an open position; and

an integrated extendable load floor assembly cooperating with said rear storage area, said integrated extendable load floor assembly including at least one rail disposed upon each of said sides of said rear storage area and a load floor cooperating with said at least one rail, said load floor having [for allowing] selective sliding movement in and out of said rear storage area of the vehicle and to close said open end of said rear storage area and a load floor latching mechanism that latches said load floor in a closed position within said rear storage area.

16. (AMENDED) A vehicle as set forth in claim [15] 14 wherein said load floor comprises a bottom and sides extending generally perpendicular to said bottom to form a compartment for holding objects.

17. (AMENDED) A vehicle as set forth in claim [15] 14 including a rear panel that is cooperatively attached to a bottom of a rear edge of said load floor allowing selective positioning of the said rear panel in an upright closed position and a horizontal open position.

20. (AMENDED) An automotive vehicle comprising:

a body including a rear end having a floor and sides extending upwardly and along said floor to form a cargo area;

a plurality of rails spaced laterally and extending longitudinally between said sides above said floor;

a load floor operatively cooperating with said rails for sliding movement therealong; [and]

a decklid pivotally secured to said sides to cover said cargo area in a closed position and to allow access to said cargo area in an open position and to allow said load floor to be extended when said decklid is in said open position;

an endgate pivotally connected to said load floor and having a closed upright position and an open horizontal position;

an endgate latching mechanism that latches said endgate in said upright closed position; and

a load floor latching mechanism that latches said load floor in a closed position within said rear storage area.

21. (AMENDED) A sedan type automotive vehicle comprising:

a body including a rear end having a floor and sides extending upwardly and along said floor to form a cargo area;

a load floor for sliding movement in and out of said cargo area;

an endgate pivotally connected to said [sides] load floor and having a closed upright position and an open horizontal position; [and]

a decklid pivotally secured to said sides and cooperating with said endgate to cover said cargo area in a closed position and to allow access to said cargo area in an open position and to allow objects to be removed from said cargo area when said decklid is in said open position; and

a load floor latching mechanism that latches said load floor in a closed position within said cargo area.